
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

RICARDO HERRERA,

Plaintiff,

*versus*DIRECTOR, TDCJ-CID, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:08-CV-535

**MEMORANDUM ORDER PARTIALLY ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Ricardo Herrera, a prisoner confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought this civil rights action pursuant to 42 U.S.C. § 1983.

The court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends dismissing the case with prejudice pursuant to 28 U.S.C. § 1915(e).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties. However, the plaintiff filed a motion to dismiss the action. After due consideration, the court is of the opinion that the motion should be granted, and the case should be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(1).

O R D E R

Accordingly, the plaintiff's motion to dismiss the case is **GRANTED**. The report of the magistrate judge is **ADOPTED** to the extent that it recommends dismissing the action. A final judgment will be entered in this case in accordance with this memorandum order.

SIGNED at Beaumont, Texas, this 3rd day of November, 2008.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE